## **SUPPLEMENTAL EXHIBIT 2**

## IN THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF VIRGINIA Alexandria Division

LEN STOLER, INC., dba Len Stoler Audi,

Plaintiff,

) CIVIL ACTION v.

VOLKSWAGEN GROUP OF AMERICA, INC., dba ) 1:15-cv-1659 Audi of America, Inc.,

Defendant.

REPORTER'S TRANSCRIPT

MOTION HEARING

Friday, September 2, 2016

BEFORE:

THE HONORABLE T.S. ELLIS, III

Presiding

APPEARANCES:

BARBARA S. WAHL, ESQ. RUSSEL P. MCRORY, ESQ. MICHAEL MCMAHAN, ESQ.

For the Plaintiff

MARK DARE, ESQ.

DANIEL R. FINE, ESQ.

For the Defendant

MICHAEL A. RODRIQUEZ, RPR/CM/RMR Official Court Reporter USDC, Eastern District of Virginia Alexandria Division

1 that it was a very necessarily discounted number from 2 what he hoped he could reap. 3 THE COURT: All right. Go on. 4 ATTORNEY WAHL: So before the sale, this lawsuit had already been instituted. And Stoler has 5 6 alleged causes of action arising, as the Court is aware, under the Maryland Dealer Act, and that's because the 7 8 parties' dealer agreement, as well as the facilities 9 agreement that they signed about building the new exclusive facility, called for Maryland law to apply. 10 11 And, specifically, the allegations are, that 12 arise under three separate sections of the Transportation Code 207(h), the first is (h)(1)(i), 13 14 which is that Stoler was not -- did not receive and was 15 not offered the higher bonus as was offered and received 16 by exclusive dealers. 17 The second, (h)(2)(i) and (ii), is that 18 Stoler was compelled or required to build an exclusive 19 facility by Audi, and also denied, or threatened to be 20 denied, a benefit that was generally available to 21 dealers, because -- unless it did build this exclusive 22 facility. 23 And the third allegation, set of 24 allegations, arises under (h)(3), and that is that Audi 25 reduced the purchase price of the vehicle -- or didn't

clear that  THE COURT: Well, they weren't or we be here.  ATTORNEY WAHL: Well  THE COURT: But you think the current	1	THE COURT: Okay. Tell me why.
clear that  THE COURT: Well, they weren't or we be here.  ATTORNEY WAHL: Well  THE COURT: But you think the current is sufficient to do what?	2	ATTORNEY WAHL: And it's because it's the
THE COURT: Well, they weren't or we be here.  ATTORNEY WAHL: Well  THE COURT: But you think the current is sufficient to do what?	3	appearance versus the reality problem. The Legislature
be here.  ATTORNEY WAHL: Well  THE COURT: But you think the current is sufficient to do what?	4	was very clear that
ATTORNEY WAHL: Well  THE COURT: But you think the current is sufficient to do what?	5	THE COURT: Well, they weren't or we
THE COURT: But you think the current is sufficient to do what?	6	wouldn't be here.
is sufficient to do what?	7	ATTORNEY WAHL: Well
	8	THE COURT: But you think the current
ATTORNEY WAHL: That all incentives must be	9	language is sufficient to do what?
	10	ATTORNEY WAHL: That all incentives must be
qually, not conditioned on whether	11	offered equally, not conditioned on whether
THE COURT: Well, where does it say not	12	THE COURT: Well, where does it say not
	13	conditioned?
ed?	14	ATTORNEY WAHL: It doesn't. That is exactly
	15	the point. Audi's position is, essentially, going back
ATTORNEY WAHL: It doesn't. That is exactly	16	to the lady at Target, we can sell everything to
ATTORNEY WAHL: It doesn't. That is exactly  . Audi's position is, essentially, going back	17	anybody, except you have to have straight blond hair.
ATTORNEY WAHL: It doesn't. That is exactly  . Audi's position is, essentially, going back  dy at Target, we can sell everything to	18	Now, that is a policy
ATTORNEY WAHL: It doesn't. That is exactly  . Audi's position is, essentially, going back  dy at Target, we can sell everything to  except you have to have straight blond hair.	19	THE COURT: I don't think that's analogous
ATTORNEY WAHL: It doesn't. That is exactly  . Audi's position is, essentially, going back dy at Target, we can sell everything to except you have to have straight blond hair.  Now, that is a policy	20	at all to this, and I think you won't succeed going back
ATTORNEY WAHL: It doesn't. That is exactly  . Audi's position is, essentially, going back dy at Target, we can sell everything to except you have to have straight blond hair.  Now, that is a policy  THE COURT: I don't think that's analogous	21	there.
ATTORNEY WAHL: It doesn't. That is exactly  . Audi's position is, essentially, going back dy at Target, we can sell everything to except you have to have straight blond hair.  Now, that is a policy  THE COURT: I don't think that's analogous	22	But it seems to me that the (h)(1) you
ATTORNEY WAHL: It doesn't. That is exactly  . Audi's position is, essentially, going back dy at Target, we can sell everything to  except you have to have straight blond hair.  Now, that is a policy  THE COURT: I don't think that's analogous this, and I think you won't succeed going back	23	don't rely only on that statute anyway.
ATTORNEY WAHL: It doesn't. That is exactly  . Audi's position is, essentially, going back dy at Target, we can sell everything to except you have to have straight blond hair.  Now, that is a policy  THE COURT: I don't think that's analogous this, and I think you won't succeed going back  But it seems to me that the (h)(1) you	24	ATTORNEY WAHL: We do not, your Honor.
ATTORNEY WAHL: It doesn't. That is exactly  Audi's position is, essentially, going back dy at Target, we can sell everything to except you have to have straight blond hair.  Now, that is a policy  THE COURT: I don't think that's analogous this, and I think you won't succeed going back  But it seems to me that the (h)(1) you y only on that statute anyway.	25	THE COURT: And I think it may be a mistake
THE COURT: Well, where does it say not	13 14 15 16 17 18	conditioned?  ATTORNEY WAHL: It doesn't. That is exactly the point. Audi's position is, essentially, going back to the lady at Target, we can sell everything to anybody, except you have to have straight blond hair.  Now, that is a policy  THE COURT: I don't think that's analogous
	10	ATTORNEY WAHL: That all incentives must be
THEORNIE WINE. THAT ALL THOUSE VOD MADE DO		
ATTORNEY WAHL: That all incentives must be	9	-
	8	THE COURT: But you think the current
is sufficient to do what?	7	ATTORNEY WAHL: Well
THE COURT: But you think the current is sufficient to do what?	6	wouldn't be here.
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e versus the reality problem. The Legislature  clear that  THE COURT: Well, they weren't or we  be here.  ATTORNEY WAHL: Well  THE COURT: But you think the current  is sufficient to do what?	1	THE COURT: Okay. Tell me why.

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1
       for you to rely only on that one, because I don't see
 2
       any reason why they can't say, "You get a higher bonus
 3
       if all of your salespeople wear red clothes," or "if you
       build another facility."
 4
                   But if you go to another provision, you may
 5
 6
       get something out of it.
 7
                   But this -- their argument is, "Look, we
 8
       offered the exclusive standard -- standards bonus to all
 9
       dealers." And if they chose to operate out of exclusive
10
       facilities and sell only Audi vehicles, they could
11
       receive the higher bonus.
12
                   I think the way I see it thus far -- correct
       me if you think I am wrong -- if that's all that the
13
14
       Maryland law said, if there wasn't anything else, you
15
       might be in a tougher situation, because it only says
16
       you've got to offer it to everybody.
17
                   And then you would say, "Well, not everybody
18
       can accept it. Not everybody wants to accept it."
19
                   Well, there is nothing in the statute about
20
       you can't make offers that some people can't accept or
21
       that some people don't want.
22
                   But I don't think you are limited to
23
       (h)(1)(i).
24
                   ATTORNEY WAHL: We are not, your Honor.
25
                   THE COURT:
                               Right.
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